

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff,

-against-

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation of
Bernard L. Madoff Investment Securities LLC,

Adv. Pro. No. 09-01364 (SMB)

Plaintiff,

-against-

HSBC BANK PLC, *et al.*,

Defendants.

DISCOVERY ARBITRATOR'S AMENDED FIFTH DISCOVERY ORDER

The Discovery Arbitrator, having conducted a further hearing on February 27, 2020 regarding the Trustee's request to extend the fact discovery deadline in this matter, and the Trustee

and Alpha Prime Fund Ltd. (referred to herein as the “Parties” and each as a “Party”) having agreed upon the form of this Order, hereby directs as follows:

1. Fact Discovery Cut-Off. All fact discovery is to be completed by December 7, 2020 (the “Fact Discovery Cut-Off Date”), which is an extension of 250 days from the previous fact discovery deadline of April 1, 2020. The Parties may seek to extend the Fact Discovery Cut-Off Date by agreement or through a request to the Discovery Arbitrator.

2. Interrogatories. The Parties may serve interrogatories under Local Bankruptcy Rule 7033-1(a). The Parties may not serve interrogatories under Local Bankruptcy Rule 7033-1(c) without the Discovery Arbitrator’s prior approval.

3. Depositions. Each Party may take up to 20 depositions of fact witnesses, inclusive of foreign examinations taken pursuant to Letters of Request or Letters Rogatory. Either Party may seek further expansion of the limit on depositions and/or foreign examinations through application to the Discovery Arbitrator.

4. Updates to Discovery Arbitrator. The Parties shall submit a joint letter to the Discovery Arbitrator advising on the status and progress of discovery within 60 days of the date the Discovery Arbitrator executes this Order, and then at the end of each subsequent 60-day period thereafter until the completion of discovery. The joint letter shall also apprise the Discovery Arbitrator whether either Party believes an in-person or telephonic conference with the Discovery Arbitrator is warranted. There is no page limit to the joint letter. Seven days before the joint letter is due to the Discovery Arbitrator, the Trustee’s counsel shall send a draft of the letter to Alpha Prime’s counsel, and the Parties shall meet and confer to finalize the letter before submitting it to the Discovery Arbitrator. In the event a form of letter cannot be agreed upon between the Parties, the three-page limitation shall apply. Nothing in this paragraph shall prevent the Parties from

referring discovery disputes to the Discovery Arbitrator in accordance with the procedures set forth in Paragraph 6 of the First Amended Case Management Order and the Stipulation and Order Appointing a Discovery Arbitrator Pursuant to Bankruptcy Rule 9019(c) and General Order M-390 (ECF No. 498).

SO ORDERED.

Dated: New York, New York
April 4, 2020



Frank Maas
Discovery Arbitrator

PROOF OF SERVICE BY E-Mail

Re: Picard vs. HSBC Bank plc/Alpha Prime
Reference No. 1425025754

I, Shakiya Wright-McDuffie, not a party to the within action, hereby declare that on April 6, 2020, I served the attached Amended 5th Discovery Order on the parties in the within action by electronic mail at New York, NEW YORK, addressed as follows:

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Parties Represented:
HSBC Bank plc/Alpha Prime

I declare under penalty of perjury the foregoing to be true and correct. Executed at New York, NEW YORK on April 6, 2020.



Shakiya Wright-McDuffie
JAMS
swrightmcduffle@jamsadr.com

